



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 567

September 1, 2021

ISSUES

Whether a judge may use political contributions to pay expenses related to home security systems and equipment. (AOR-649).

SUMMARY

A judge may use political contributions to pay ordinary and necessary expenses incurred in connection with ensuring their home security.

FACTS

The requestor is a judicial officer seeking guidance on the use of campaign funds to pay for home security measures recommended by the Texas Office of Court Administration. The requestor notes that judicial officers are provided some security when physically within the Courthouse, but are generally unprotected in most other settings, particularly at home. This lack of security can have terrible consequences. The requestor cites the shooting of a Travis County district judge in 2015 as an example of the danger that judicial officers face.

The requestor provides a personal security assessment created by the Texas Office of Court Administration. The assessment describes the requestor's home and its various vulnerabilities. The report makes many recommendations for improving security at the requestor's home, including: (1) motion sensing lights at entrances to the home, walkways around the home, and the home's garage, (2) new perimeter doors, (3) secure locks and strike plates on doors, (4) security storm doors, (5) garage shields, (6) locks on some utility boxes, (7) security cameras, (8) motion sensors, (9) gate locks, and (10) a safe.

ANALYSIS

Legal standard:

Section 253.035(a) of the Texas Election Code prohibits a candidate or officeholder from converting political contributions to "personal use." Tex. Elec. Code § 253.035(a). "Personal use"

is defined as a use that “primarily furthers individual or family purposes not connected with the performance of duties or activities as a candidate for or holder of a public office.” *Id.* § 253.035(d).

In Ethics Advisory Opinion 555, the Commission considered whether a judge may use political contributions to fund the production of an educational podcast. Tex. Ethics Comm’n Op. No. 555 (2020). The Commission concluded that the contemplated podcast would be “connected to the judge’s performance of official duties and activities.” *Id.* As a result, “ordinary and necessary expenses” related to the creation of the podcast could be paid for with political contributions. *Id.*

In Ethics Advisory Opinion 547, the Commission found that a candidate could use political contributions to pay childcare expenses. Though this use did “further some individual or family purposes,” the Commission noted that a use was not prohibited simply because it “may have some incidental benefits to the individual candidate.” Tex. Ethics Comm’n Op. No. 547 (2018) (quoting Tex. Ethics Comm’n Op. No. 149 (1993)). Instead, the Commission focused on whether or not the expenses would have been incurred but for the individual’s status as a candidate, and concluded that they would not. *Id.* (“According to the facts presented, the candidate began paying for childcare services only after becoming a candidate, and the candidate’s stated purpose in acquiring the childcare services is to allow or facilitate her participation in campaign events.”).

The Federal Election Commission has also addressed similar questions. In Advisory Opinion 2021-03, the FEC determined that the use of campaign funds for “bona fide, legitimate, professional personal security personnel against threats arising from the members’ status as officeholders is a permissible use of campaign funds” That opinion also noted that the FEC had previously and repeatedly authorized “the use of campaign funds to protect against threats to officeholders’ personal safety, on the grounds that the need for such expenses would not exist without their status as Members of Congress.”

Judicial officers may use political contributions to pay ordinary and necessary expenses incurred in connection with ensuring the security of their homes:

Here, like in Ethics Advisory Opinion 547, the requestor’s stated purpose for making the expenditures is connected to the performance of her official duties and would not be necessary but for her status as an officeholder. As the requestor notes, judicial officers’ performance of their official duties and activities can threaten their physical safety in their own homes. If the requestor were not a judicial officer, she would not be exposed to the same dangers. Further, a judicial officer’s reasonable fear that their safety might be threatened could impact the way in which they execute their duties. Consequently, ordinary and necessary expenses incurred in connection with ensuring a judicial officer’s security while at home are connected with the performance of the officer’s duties or activities. Tex. Elec. Code § 253.035(d).

Though home security may provide an incidental benefit to the judicial officer or their family, the primary function of the use of political contributions is connected to the requestor’s execution of their public duty. *See Id.* We therefore conclude that the requestor’s use of political contributions to defray ordinary and necessary expenses related to home security measures would not violate section 253.035.

We stress that political contributions may only be used to defray “ordinary and necessary expenses.” Tex. Ethics Comm’n Op. No. 555 (2020). We decline to offer an opinion on whether or not the specific home-security measures identified in Texas Office of Court Administration’s assessment are ordinary and necessary. However, we would assume, in the absence of any countervailing evidence, that the Texas Office of Court Administration would not recommend something that is not ordinary or necessary.